

From: [Thoreson, Brad P.](#)
To: [Ben McIntosh](#)
Cc: [Kaatz, Jeffrey R.](#); [Brandt, Marci L.](#); [Shulman, Alexandra M.](#)
Subject: RE: Tinfra, LLC v. Bit Capital, Thommes & Odom
Date: Wednesday, March 29, 2023 10:59:01 AM
Attachments: [image003.png](#)
[image004.png](#)

Dear Ben:

Can you please advise 1) where (address) the equipment is being stored; 2) confirm that it remains palletized as delivered; 3) the total number of pallets; and 4) the dimension and weight of the pallets.

We would also like to know where the \$1.4M our client transferred to your clients for the property purchase resides, meaning bank account (or accounts if more than one). As these funds are due, regardless of the default and tort issues, by 9/1/23, we need to understand where they are and get confirmation by stipulation that we can file with the Court that the funds will stay there or be returned to our client now.

Thank you in advance. With regard to response time to the TRO, if the above issues get resolved (we get all of our equipment back and can block the \$1.4M of get it returned), then there may not be a need for a TRO. We are just left with the contract and tort claims. Conversely, if one or both cannot be confirmed, we will move as permitted by the rules, and if the money is not blocked or returned, we will likely proceed under FRCP 65(b)(1)(a) and would expect a ruling from the Court on the day of the filing, based on the evidence.

Thank you in advance for your responses to the above. Brad

Buchalter

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From: Ben McIntosh <Ben.McIntosh@swmwlaw.com>

Sent: Wednesday, March 29, 2023 6:34 AM

To: Thoreson, Brad P. <bthoreson@buchalter.com>

Cc: Kaatz, Jeffrey R. <jkaatz@buchalter.com>; Brandt, Marci L. <mbrandt@buchalter.com>;

EXHIBIT A

Shulman, Alexandra M. <ashulman@buchalter.com>

Subject: RE: Tinfra, LLC v. Bit Capital, Thommes & Odom

This message has originated from an **External Email**. Ben.McIntosh@swmwlaw.com
<ben.mcintosh@swmwlaw.com>:

Good morning, Brad,

The machines are being stored, for which storage fees have been accruing. Your client can arrange to get those as I understand they've been told but haven't done. Now that a lawsuit has been filed, communications should go between us. Let me know if your client wants to arrange to pick up the machines. I'll happily assist in coordinating with my clients.

Please let me know what dates you get from the court. I also think it makes sense to get a briefing schedule in place. You said you anticipate filing a motion for TRO by end of this week. I'd like 10 days after you file your motion to get a response on file. Is that acceptable?

I need to correct my availability for a hearing, which is: **April 18-20 or May 3-5** (I mistakenly said May 5-7 before, which is a Friday-Sunday). I hope you had a nice evening too.

Thanks,
Ben

Ben McIntosh

Attorney

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CELEBRATING 10 YEARS
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ST. LOUIS, MO 63101

From: Thoreson, Brad P. <bthoreson@buchalter.com>

Sent: Tuesday, March 28, 2023 8:12 PM

To: Ben McIntosh <Ben.McIntosh@swmwlaw.com>

Cc: Kaatz, Jeffrey R. <jkaatz@buchalter.com>; Brandt, Marci L. <mbrandt@buchalter.com>;

Shulman, Alexandra M. <ashulman@buchalter.com>

Subject: RE: Tinfra, LLC v. Bit Capital, Thommes & Odom

Hi Ben:

EXHIBIT A

Thanks for the vm and email. I am sure we can make something work. Pretty simple. We just want the status quo maintained while we work this thing through. There is the \$1.4M and the CPU's etc. on site that are very valuable. As long as we can agree that stuff does not wander off, happy to accommodate your schedule. Let's just reach an agreement on that, and then we can schedule something that works. Thanks. Hope you are having a nice evening. Brad

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From: Ben McIntosh <Ben.McIntosh@swmwlaw.com>

Sent: Monday, March 27, 2023 6:30 PM

To: Thoreson, Brad P. <bthoreson@buchalter.com>

Cc: Kaatz, Jeffrey R. <jkaatz@buchalter.com>; Brandt, Marci L. <mbrandt@buchalter.com>;

Shulman, Alexandra M. <ashulman@buchalter.com>

Subject: RE: Tinfra, LLC v. Bit Capital, Thommes & Odom

This message has originated from an **External Email**. Ben.McIntosh@swmwlaw.com
<ben.mcintosh@swmwlaw.com>:

Hi Brad,

I certainly appreciate you advising of your intention to take this action and requesting my availability for the hearing. I look forward to working with you and will be sure to extend you similar courtesies with respect to your schedule. The month of April is slammed for me with work, travel, and events. I can be available April 18-20 or May 5-7. Please let me know what dates the court has available within those dates so we can further coordinate – I'm sure, like me, your calendar can fill up quickly.

Mr. Odom is not fleeing. I'd be happy to accept service as long as you will honor working with my schedule for any TRO hearing as discussed above.

Lastly, can you please explain your reference to the theft statute? It comes off as a veiled accusation, so I would like to understand what allegations you might be referring to, if any. I'll need that information to advise my client as you suggest I should do.

EXHIBIT A

Thanks,
Ben

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From: Thoreson, Brad P. <bthoreson@buchalter.com>

Sent: Monday, March 27, 2023 7:54 PM

To: Ben McIntosh <Ben.McIntosh@swmwlaw.com>

Cc: Kaatz, Jeffrey R. <jkaatz@buchalter.com>; Brandt, Marci L. <mbrandt@buchalter.com>;

Shulman, Alexandra M. <ashulman@buchalter.com>

Subject: Tinfra, LLC v. Bit Capital, Thommes & Odom

Dear Mr. McIntosh:

Buchalter represents Tinfra, LLC. Attached are pleadings filed in Federal Court on Friday of last week and served on Bit Capital, LLC and Mr. Thommes. Please indicate which defendants you are representing. It appears Mr. Odom is moving (or fleeing) so please indicate whether you are able to accept service of process on his behalf, as all such costs will continue to accrue to Bit Capital, Mr. Thommes and Mr. Odom.

We also wanted to advise that we will be moving for injunctive relief under FRCP 65 later this week and if you had times that you are not available for presentation to the Court, please let us know. As we believe notice is not required due to circumstances described in the complaint and as permitted under FRCP 65(1)(b)(1)(A), we are doing this as a courtesy. Let us know in the very near future, or we will go ahead and schedule without your response, and will attach this email as proof of the attempt to coordinate.

Finally, under Washington law, "theft" is a crime and is defined as "wrongfully retaining property belonging to someone else, or wrongfully appropriating misdelivered property".

RCW 9A.56.020. Violating this criminal section is a Class B felony in Washington state.

And, generally, a corporation cannot commit a crime – only those who are acting through the corporation. *Washington Pattern Jury Instruction 50.18* ("it is now well settled that corporate directors, officers, and employees can be held criminally liable for any criminal acts that they personally commit regardless of whether they were acting in furtherance of the corporation's interests"). *Id.* We just thought you may want to advise your clients of these criminal laws.

Please advise on the questions raised above and your availability for the hearing on the TRO. Thank you.

EXHIBIT A

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